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AUG 11 2006

U.S. Patent Application No. 10/027,006
Reply to Office Action of April 11, 2006

Docket No.: M1912.0025

REMARKS

Claims 1 to 55 are pending in this case. Claims 32-39 have been rejected under 35 U.S.C. § 112, second paragraph, for insufficient antecedent basis for certain claim term. Claims 32-39 have been rejected under § 101 for being directed to non-statutory subject matter. Claims 1, 14, 26, 32, 38-41, and 48-49 have been rejected under § 103(a) as being unpatentable over Berg (US 2002/0112085). Claims 2, 15, 42, and 50 have been rejected under § 103(a) as being unpatentable over Berg further in view of admitted prior art. By this Amendment, applicant has amended claims 32-39 to remove informalities without narrowing the scope of the claim or any claim element contained therein. Applicant respectfully traverses the above rejections and requests reconsideration of the subject application in view of the following remarks.

In paragraph 1 of the Office Action, claims 32-39 have been rejected under § 101 for being directed to non-statutory subject matter. As is suggested in the Office Action, independent claim 32 has been amended to recite "a switching program stored on a computer readable medium." Accordingly, claims 32-37 are directed to statutory patentable subject matter. Therefore, the subject rejection with respect to claims 32-37 has been overcome.

Independent claims 38 and 39 recite "a switching program operating on a server (or client) in a communication system." Applicant respectfully submits that claims 38 and 39 as previously presented are directed to statutory patentable subject matter and therefore requests that the rejection with respect to claims 38 and 39 be withdrawn.

In paragraph 2 of the Office Action, claims 32-39 have been rejected under § 112, second paragraph, for insufficient antecedent basis for the term "said switching apparatus." In response, applicant has amended independent claim 32 to overcome the deficiency. Therefore, the above rejection with respect to independent claim 32 and its dependent claims 33-37 has been overcome. As for independent claims 38 and 39, applicant respectfully submits that each of these claims properly recites "a switching apparatus" in the first paragraphs. Therefore, withdrawal of the above rejection with respect to claims 38 and 39 is respectfully requested.

In paragraph 6 of the Office Action, claims 1, 14, 26, 32, 38-41, and 48-49 have been rejected under § 103(a) over Berg. This rejection is respectfully traversed.

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Independent claims 1, 14, 26, 32, 38-40, and 48 each require a one-way splicing from the server to the client, which is conducted from the time of relaying a data acquisition request from the client till the end of transmission of an acknowledgement packet from the server to the client. Additionally, independent claims 1, 14, 26, and 32 each require a switching apparatus, which, during the relay of a packet to be transmitted from a server to a client, rewrites the header information of the relayed packet and transmits such packet to the client. The cited portions of Berg do not teach the above claim features.

The Office Action states that "[t]he one way splicing [in Berg] is set upon request and continues per the Pg 18 Para [0225]-[0229]." Applicant respectfully disagrees. In paragraphs [0226] to [0228] of Berg, a conventional technique is described to establish a connection between a client and a server. With such conventional technique, a flow switch rewrites the packets when performing "translation" operations such as TCP splicing. Berg however does not describe that the TCP splicing is one-way splicing from a server to a client, as required in independent claims 1, 14, 26, 32, 38-40, and 48. In contrast, Berg teaches that its protocol stack processor "sends the packet to a client through Port A without TCP splicing" and that "[a]dvantageously, the packet is received by the client without intervening TCP splicing" (see paragraph [0225]). Therefore, not only the cited portions fail to teach a one-way splicing from the server to the client, as required in each of the independent claims, paragraph [0225] of Berg explicitly teaches away from the claimed invention. Therefore, each of independent claims 1, 14, 26, 32, 38-40, and 48 is not obvious over Berg for at least the above reasons.

In addition, the cited portions of Berg do not teach rewriting a packet header when a packet is transmitted to from a server to a client, as is required in independent claims 1, 14, 26, and 32. In Berg, the flow switch shown in Fig. 1b and described as conventional technique establishes a connection between a client and the flow switch to receive a client request (paragraph [0226]). After selecting a server, the flow switch establishes another connection between the flow switch and the selected server (paragraph [0227]). Packets between the client and the selected server are passed through the flow switch.

The Office Action states that the descriptions in paragraph [0228] of Berg read on the rewriting of packet header information, as is required in independent claims 1, 14, 26, and 32. Applicant respectfully disagrees. The cited portions of Berg do not teach rewriting a

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packet header when the packet is transmitted from a server to a client. In fact, Berg explicitly teaches that packets are sent to a client "without TCP splicing or packet rewriting" (see paragraph [0225]). In view of such teachings of Berg, one skilled in the art would not be motivated by Berg to arrive at the claim features of rewriting packet headers from a server to a client, as required in independent claims 1, 14, 26, and 32. Therefore, each of independent claims 1, 14, 26, and 32 is not obvious over Berg for the above additional reasons.

In view of the above, each of independent claims 1, 14, 26, 32, 38-40, and 48 is believed to patentably distinguish over Berg. Therefore, the subject rejection has been overcome.

Claims 2, 15, 42, and 50 have been rejected under § 103(a) over Berg further in view of admitted prior art. This rejection is respectfully traversed. Claims 2, 15, 42, and 50 depend from independent claims 1, 14, 40, and 48, respectively, and therefore are allowable for at least the same reasons that independent claims 1, 14, 40, and 48 are allowable. Accordingly, the subject rejection has been overcome.

Applicant has shown that claims 1 to 55 are patentable over the cited art and hereby respectfully requests that the rejections and objection of the pending claims be withdrawn. Each of the claims 1 to 55 in this application is believed to be in immediate condition for allowance and such action is earnestly solicited.

Respectfully submitted,

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